IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 17TH JULY 2007 / 26TH ASHADHA 1929

MACA.No. 1050 of 2007()

OPMV.176/2001 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOZHIKODE
.....

APPELLANT/PETITIONER IN O.P.(MV):

BIJEESH, S/O VELUKUTTY, AGED 30 YEARS,
RESIDING AT KANDARCHALIL HOUSE, MUNDAKKAL,
POOVATTUPARAMBA POST, KOZHIKODE.

BY ADV. SRI.AVM.SALAHUDIN

RESPONDENTS: RESPONDENTS IN OP(MV):
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1. **M.ABDUL JALEEL, S/O M.BEERAN,**
   RESIDING AT MELANGODAN HOUSE,
   EDAVANNA, MALAPPURAM.

2. **P.SADANANDAN, S/O RAMAN NAIR,**
   AGED 56 YEARS, RESIDING AT PALERI HOUSE,
   CHEROOPPA AMSOM, MAVOOR POST, KOZHIKODE.

3. **THE UNITED INDIA INSURANCE COMPANY LTD.,**
   DIVISIONAL OFFICE, ARAFA BUILDING,
   COURT ROAD, MANJERI.

BY

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 17/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B. KOSHY and T.R.RAMACHANDRAN NAIR, JJ.

M.A.C.A. No. 1050 of 2007

Dated this the 17th day of July, 2007

Judgment

Koshy, J.

This appeal is filed by appellant/claimant contending that contributory negligence attributed by the tribunal was wrong. F.I.R. shows that the driver of the offending bus was negligent. But, charge sheet was not produced. Claimant was not examined. From Ext.A2 wound certificate, the tribunal found that the driver was intoxicated. Ext.A2 shows that even his breath was smelling alcohol. Considering the above, the tribunal found that he was also negligent. Therefore, contributory negligence of 50% was attributed. On the facts of this case, we see no ground to interfere in the above appeal. Appeal dismissed.

J.B.KOSHY
JUDGE

T.R.RAMACHANDRAN NAIR
JUDGE

vaa

J.B. KOSHY AND
T.R.RAMACHANDRAN NAIR, JJ.

M.F.A.NO./2000

JUDGMENT

Dated:17th July, 2007